

By: Huberty

H.B. No. 412

A BILL TO BE ENTITLED

AN ACT

relating to regulation of the retail sale of fireworks.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2154.001(11), Occupations Code, is amended to read as follows:

(11) "Jobber" means a person who purchases fireworks ~~only~~ for resale to retailers.

SECTION 2. Section 2154.151(c), Occupations Code, is amended to read as follows:

(c) A licensed manufacturer may sell:

(1) Fireworks 1.4G only to:

(A) the public as provided by Section 2154.208;
and

(B) a licensed distributor or jobber; and

(2) Fireworks 1.3G only to a licensed distributor or pyrotechnic operator, or to a fireworks public display permit holder for use in public fireworks displays in this state.

SECTION 3. Section 2154.153(a), Occupations Code, is amended to read as follows:

(a) A person must be a licensed jobber if the person stores, possesses, and sells Fireworks 1.4G ~~only~~ to retailers in this state.

SECTION 4. Section 2154.202(a), Occupations Code, is amended to read as follows:

1 (a) Except as authorized under Section 2154.208, a [A]
2 person selling fireworks directly to the public must annually
3 obtain a nonrenewable retail fireworks permit for each retail
4 location.

5 SECTION 5. Subchapter E, Chapter 2154, Occupations Code, is
6 amended by adding Section 2154.208 to read as follows:

7 Sec. 2154.208. SALE OF FIREWORKS TO PUBLIC BY LICENSED
8 MANUFACTURERS, DISTRIBUTORS, AND JOBBERS. (a) A manufacturer,
9 distributor, or jobber who holds a license issued under this
10 chapter may offer fireworks for retail sale to the public only at a
11 location for which the manufacturer, distributor, or jobber obtains
12 a retail location permit from the state fire marshal's office.

13 (b) A permit issued under this section expires on the date
14 the permit holder's manufacturer, distributor, or jobber license,
15 as applicable, expires under this chapter.

16 (c) The state fire marshal may not collect a permit fee for
17 permits issued under this section. The license fees collected
18 under Subchapter D cover the cost of administering the permits
19 issued under this section.

20 (d) A manufacturer, distributor, or jobber who holds a
21 retail location permit issued under this section may offer
22 fireworks for retail sale to the public at the location specified in
23 the permit during the period beginning at 12:01 a.m. two days before
24 the beginning date and ending at 11:59 p.m. two days after the
25 ending date of each of the following holidays:

26 (1) Epiphany;

27 (2) The Prophet's Birthday;

- 1 (3) Orthodox Christmas;
- 2 (4) Orthodox New Year;
- 3 (5) National Freedom Day;
- 4 (6) Groundhog Day;
- 5 (7) Tu Bishvat;
- 6 (8) Valentine's Day;
- 7 (9) Mardi Gras;
- 8 (10) Ash Wednesday;
- 9 (11) Chinese New Year;
- 10 (12) Saint David's Day;
- 11 (13) Holi;
- 12 (14) Texas Independence Day;
- 13 (15) Purim;
- 14 (16) Saint Patrick's Day;
- 15 (17) March equinox;
- 16 (18) Palm Sunday;
- 17 (19) Maundy Thursday;
- 18 (20) Good Friday;
- 19 (21) Holy Saturday;
- 20 (22) Passover;
- 21 (23) Easter Sunday;
- 22 (24) Easter Monday;
- 23 (25) National Tartan Day;
- 24 (26) Orthodox Good Friday;
- 25 (27) Yom HaShoah;
- 26 (28) Tax Day;
- 27 (29) San Jacinto Day;

- 1 (30) Yom Ha'atzmaut;
- 2 (31) Loyalty Day;
- 3 (32) Cinco de Mayo;
- 4 (33) Lag b'Omer;
- 5 (34) National Day of Prayer;
- 6 (35) Mother's Day;
- 7 (36) Ascension Day;
- 8 (37) Peace Officers Memorial Day;
- 9 (38) Isra and Miraj;
- 10 (39) Armed Forces Day;
- 11 (40) National Maritime Day;
- 12 (41) Pentecost;
- 13 (42) Shavuot;
- 14 (43) Whit Monday;
- 15 (44) Trinity Sunday;
- 16 (45) Corpus Christi;
- 17 (46) Vesak;
- 18 (47) D-day;
- 19 (48) Flag Day;
- 20 (49) Juneteenth;
- 21 (50) June solstice;
- 22 (51) Father's Day;
- 23 (52) Lailat al-Qadr;
- 24 (53) Eid al-Fitr;
- 25 (54) Tisha B'Av;
- 26 (55) Parents' Day;
- 27 (56) Assumption of Mary;

- 1 (57) National Aviation Day;
- 2 (58) Patriot Day;
- 3 (59) Constitution Day and Citizenship Day;
- 4 (60) National POW/MIA Recognition Day;
- 5 (61) Yom Kippur;
- 6 (62) September equinox;
- 7 (63) Bon Festival;
- 8 (64) Eid al-Adha;
- 9 (65) Native Americans' Day;
- 10 (66) Gold Star Mother's Day;
- 11 (67) Sukkot;
- 12 (68) Feast of Saint Francis of Assisi;
- 13 (69) Shemini Atzeret;
- 14 (70) Child Health Day;
- 15 (71) Simchat Torah;
- 16 (72) Leif Erikson Day;
- 17 (73) Muharram;
- 18 (74) White Cane Safety Day;
- 19 (75) Halloween;
- 20 (76) All Saints' Day;
- 21 (77) All Souls' Day;
- 22 (78) Diwali;
- 23 (79) Hanukkah;
- 24 (80) Pearl Harbor Remembrance Day;
- 25 (81) Feast of the Immaculate Conception;
- 26 (82) Feast of Our Lady of Guadalupe;
- 27 (83) Wright Brothers Day;

- (84) December solstice;
- (85) Christmas Eve;
- (86) President's Day;
- (87) Governor's Day;
- (88) Labor Day;
- (89) Memorial Day;
- (90) Independence Day;
- (91) New Year's Day; and
- (92) Kwanzaa.

SECTION 6. Section 352.051(b)(1), Local Government Code, is amended to read as follows:

(1) The Texas A&M Forest Service in the ordinary course of its activities shall determine whether drought conditions, as defined under Subsection (a)(2), exist on average in any county requesting such a determination. The Texas A&M Forest Service shall make available the measurement index guidelines used to determine whether drought conditions exist in a particular area. Following any determination that such drought conditions exist, the Texas A&M Forest Service shall notify said county or counties when such drought conditions no longer exist. The Texas A&M Forest Service shall make its services available each business day ~~during the Texas Independence Day, San Jacinto Day, Memorial Day, Fourth of July, and December fireworks seasons~~ to respond to the request of any county for a determination whether drought conditions exist on average in the county.

SECTION 7. Section 352.051(c), Local Government Code, is amended to read as follows:

1 (c) Upon a determination under this section that drought
2 conditions exist on average in a specified county, the
3 commissioners court of the county by order may prohibit or restrict
4 the sale or use of restricted fireworks in the unincorporated area
5 of the county. In addition, [~~during the December fireworks season,~~]
6 the commissioners court of a county by order may restrict or
7 prohibit the sale or use of restricted fireworks in specified areas
8 when conditions on rural acreage in the county not under
9 cultivation for a period of at least 12 months are determined to be
10 extremely hazardous for the danger of fire because of high grass or
11 dry vegetation.

12 SECTION 8. Section [352.051](#)(d), Local Government Code, is
13 repealed.

14 SECTION 9. Not later than December 1, 2017, the state fire
15 marshal shall adopt the rules and prescribe the forms necessary to
16 implement the changes in law made by this Act.

17 SECTION 10. This Act takes effect September 1, 2017.